IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

FIRST APPEAL NO. 60 OF 1999

Vasantdada Shetkari Sahakari Sakhar)
Karkhana Limited, Sangli through its)
Managing Director, Sangli 416 416.).. APPELLANT

Versus

1) Smt.Sindu Chandrakant Katkar)

2) Kum.Puja Chandrakant Katkar)

3) Smt.Yellavwa Santu Katkar)
All residing at Auchitnagar)
Madhav Nagar, Dist. Sangli.)

4) Vishwasrao Tatyaso Nalawade)
Shivaji Housing Society, Plot No.17)
Vishwava Prabha, Opp.Sakhar)
Karkhana Limited, Sangli.).. RESPONDENTS

Mr.A.V.Bukhari for the Appellant.

None present for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 14TH JULY 2005

ORAL JUDGMENT :

. This First Appeal is directed against the order dated 18th November 1998 passed by the Commissioner For Workmen’s Compensation, Sangli in W.C. Application No.44 of 1993 allowing the application filed by Respondent No.1. The Commissioner has found that Respondent No.1’s husband suffered injuries due to the accident which occurred on 4th November 1992 during the course of employment.

2. The facts in brief are as follows :-

. The workman Chandrakant Santu Katkar, the husband of Respondent No.1 and father of Respondent Nos.2 and 3 was working with the Karkhana, the Appellant herein, at a daily wage of Rs.31/-. He was being supervised by the Civil Engineer employed with the Karkhana. It appears that on the fateful day i.e. on 4th November 1992 the deceased was on duty. His duty hours were between 8.00 a.m. and 12.00 noon and then from 1.00 p.m. to 5.00 p.m. It appears that he sustained an electric shock at 7.30 p.m. while working at the bungalow in which Respondent No.4 resided. Respondent No.1 made an application for compensation to the Appellant herein which was denied. She, therefore, filed an application under the Workmen's Compensation Act claiming compensation from both the Appellant as well as Respondent No.4 herein. The Commissioner has awarded Rs.80,352/- as compensation with interest at the rate of 6% per annum from the date of the accident till the date of deposit.

3. Mr.Bukhari for the Appellant contends that there is no dispute that the deceased was an employee of the Karkhana. However, his death on 4th November 1992 at 7.30 p.m. had no nexus whatsoever with the working of the Karkhana. According to him, the duty hours of the

deceased were from 8.00 a.m. to 5.00 p.m. Apparently, Respondent No.4 may have directed the deceased to carry out some menial jobs at his residence. This, according to Mr.Bukhari, was a contract or an understanding between Respondent No.4 and the deceased and the Karkhana had no part to play. He, therefore, submits that the Karkhana cannot be foisted with the liability of payment of compensation for the death of the employee which occurred at the residence of Respondent No.4. According to him, the bungalow in which the death occurred did not belong to the Karkhana but was owned by Respondent No.4 and, therefore, the premises of the Karkhana could not be notionally extended to that bungalow.

4. On a perusal of the evidence as well as the impugned order, I find that the submissions of Mr.Bukhari must be upheld. When the duty hours of the deceased were between 8.00 a.m. and 5.00 p.m. and the accident occurred at 7.30 p.m., it was necessary for the Respondent No.1 to establish that there was a causal connection between the work and the accident or there was any nexus between the two. The evidence of Respondent No.4 which has been recorded indicates that the deceased was working at his residence when he received an electric shock which proved to be fatal. He has admitted that the deceased was employed by him for doing household work after completion of his duty hours

with the Karkhana. It was when he was working at the residence of Respondent No.4 that he sustained an electric shock. Therefore, in my view, the Karkhana cannot be held liable for payment for compensation. There was no causal connection between the accident and the place of work. Nor can the theory of notional extension have any application to the facts in this case. In such circumstances, it is difficult to uphold the judgment of the Commissioner.

5. Mr.Bukhari states that when the Appeal was filed, an amount of Rs.1,09,882/- was deposited in the Labour Court, which was the entire amount awarded by the Commissioner. He submits that 50% of this amount i.e. Rs.54,941/- has been withdrawn by Respondent No.1 on 2nd February 2000 and the remaining amount has been invested in the State Bank of India, Market Yard Branch, Sangli by the Labour Court. In my view, interest of justice would be met if the impugned order of the Commissioner for Workmen’s Compensation is set aside and the Karkhana is permitted to withdraw the amount which has been deposited and invested in the Bank together with interest accrued thereon. However, the amount of Rs.54,941/- which has already been withdrawn by Respondent No.1 shall not be recovered from her.

6. Appeal, therefore, allowed. The Labour Court, Sangli to pay up the amount of Rs.54,941/- which has

been invested together with accrued interest to the Appellant Karkhana.